



Rep. Jay Hoffman

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10200HB3820ham003

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1 AMENDMENT TO HOUSE BILL 3820

2 AMENDMENT NO. _____. Amend House Bill 3820, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Illinois Procurement Code is amended by
6 adding Section 45-105 as follows:

7 (30 ILCS 500/45-105 new)

8 Sec. 45-105. Bid preference for Illinois businesses.

9 (a) For the purposes of this Section:

10 "Illinois business" means a contractor that: (i) is
11 headquartered in Illinois and providing, at the time that an
12 invitation for a bid or notice of contract opportunity is
13 first advertised, construction or construction-related
14 professional services for Illinois-based projects; (ii)
15 conducts meaningful day-to-day business operations at a
16 facility in Illinois that is the place of employment for the

1 majority of its regular, full-time workforce; (iii) holds all
2 appropriate State licenses; and (iv) is subject to applicable
3 State taxes. "Illinois business" does not include any
4 subcontractors.

5 "Illinois-based project" means an individual project of
6 construction and other construction-related services for a
7 construction agency that will result in the conduct of
8 business within the State or the employment of individuals
9 within the State.

10 (b) It is hereby declared to be the public policy of the
11 State of Illinois to promote the economy of Illinois through
12 the use of Illinois businesses for all State construction
13 contracts.

14 (c) Construction agencies procuring construction and
15 construction-related professional services shall make
16 reasonable efforts to contract with Illinois businesses.

17 (d) Beginning in 2022, each construction agency shall
18 submit a report to the Governor and the General Assembly by
19 September 1 of each year that identifies the Illinois
20 businesses procured by the construction agency, the primary
21 location of the construction project, the percentage of the
22 construction agency's utilization of Illinois businesses on
23 the project as a whole, and the actions that the construction
24 agency has undertaken to increase the use of Illinois
25 businesses.

26 (e) In procuring construction and construction-related

1 professional services for projects with a total construction
2 cost of more than \$100,000, construction agencies shall
3 provide a bid preference to a responsible bidder that is an
4 Illinois business as defined in this Section. The construction
5 agency shall allocate to any responsible bidder that is an
6 Illinois business a bid preference of 4% of the contract base
7 bid.

8 (f) This Section does not apply to any contract for any
9 project for which federal funds are available for expenditure
10 when its provisions may be in conflict with federal law or
11 federal regulation.

12 Section 10. The Procurement of Domestic Products Act is
13 amended by changing Sections 5, 10, and 25 and by adding
14 Sections 3 and 35 as follows:

15 (30 ILCS 517/3 new)

16 Sec. 3. Policy. It is hereby declared to be the public
17 policy of the State of Illinois for each purchasing agency to
18 use the terms and conditions of State financial assistance
19 awards and State procurements to maximize the use of goods,
20 products, and materials produced in Illinois.

21 (30 ILCS 517/5)

22 Sec. 5. Definitions. As used in this Act:

23 "Manufactured in Illinois" means, in the case of assembled

1 articles, materials, or supplies, having been designed,
2 finally assembled, processed, packaged, tested, or otherwise
3 processed in Illinois in a manner that adds value, quality, or
4 reliability.

5 "Manufactured in the United States" means, in the case of
6 assembled articles, materials, or supplies, that design, final
7 assembly, processing, packaging, testing, or other process
8 that adds value, quality, or reliability occurs in the United
9 States.

10 "Procured products" means assembled articles, materials,
11 or supplies purchased by a State agency.

12 "Purchasing agency" has the meaning ascribed to that term
13 in Section 1-15.70 of the Illinois Procurement Code ~~means a~~
14 ~~State agency.~~

15 "State agency" has the meaning ascribed to that term in
16 Section 1-15.100 of the Illinois Procurement Code ~~means each~~
17 ~~agency, department, authority, board, or commission of the~~
18 ~~executive branch of State government, including each~~
19 ~~university, whether created by statute or by executive order~~
20 ~~of the Governor.~~

21 "United States" means the United States and any place
22 subject to the jurisdiction of the United States.

23 (Source: P.A. 98-463, eff. 8-16-13.)

24 (30 ILCS 517/10)

25 Sec. 10. Domestic ~~United States~~ products.

1 (a) Each purchasing agency making purchases of procured
2 products shall promote the purchase of and give preference to
3 manufactured articles, materials, and supplies that have been
4 manufactured in the United States. Procured products
5 manufactured in the United States shall be specified and
6 purchased unless the purchasing agency determines that any of
7 the following applies:

8 (1) The procured products are not manufactured in the
9 United States in reasonably available quantities.

10 (2) The price of the procured products manufactured in
11 the United States exceeds ~~by an unreasonable amount~~ the
12 price of available and comparable procured products
13 manufactured outside of the United States by 12% or more.

14 (3) The quality of the procured products manufactured
15 in the United States is substantially less than the
16 quality of the comparably priced, available, and
17 comparable procured products manufactured outside of the
18 United States.

19 (4) The purchase of the procured products manufactured
20 outside of the United States better serves the public
21 interest by helping to protect or save life, property, or
22 the environment.

23 (5) The purchase of the procured products is made in
24 conjunction with contracts or offerings of
25 telecommunications, fire suppression, security systems,
26 communications services, Internet services, or information

1 services.

2 (6) The purchase is of pharmaceutical products, drugs,
3 biologics, vaccines, medical devices used to provide
4 medical and health care or treat disease or used in
5 medical or research diagnostic tests, and medical
6 nutritionals regulated by the Food and Drug Administration
7 under the federal Food, Drug and Cosmetic Act.

8 (7) The purchase is an emergency purchase authorized
9 under Section 20-30 of the Illinois Procurement Code.

10 (8) The purchase is a sole source or sole economically
11 feasible source purchase authorized under Section 20-25 of
12 the Illinois Procurement Code.

13 (b) If there is a tie between 2 bidders or offerors who
14 have certified that they will provide products manufactured in
15 the United States, the bidder or offeror that certifies it
16 will provide products manufactured in Illinois shall be given
17 preference.

18 (c) In determining the price of procured products for
19 purposes of this Section, consideration shall be given to the
20 life-cycle cost, including maintenance and repair of those
21 procured products.

22 (Source: P.A. 93-954, eff. 1-1-05; 94-540, eff. 1-1-06.)

23 (30 ILCS 517/25)

24 Sec. 25. Penalties. If a contractor is awarded a contract
25 through the use of a preference under this Act and knowingly

1 supplies procured products under that contract that are not
2 manufactured in Illinois or the United States, as applicable,
3 then (i) the contractor is barred from obtaining any State
4 contract for a period of 5 years after the violation is
5 discovered by the purchasing agency, (ii) the purchasing
6 agency may void the contract, and (iii) the purchasing agency
7 may recover damages in a civil action in an amount 3 times the
8 value of the preference.

9 (Source: P.A. 93-954, eff. 1-1-05; 94-540, eff. 1-1-06.)

10 (30 ILCS 517/35 new)

11 Sec. 35. Compliance reports. Beginning within 180 days
12 after the effective date of this amendatory Act of the 102nd
13 General Assembly, and annually thereafter, each purchasing
14 agency shall submit to the chief procurement officer a report
15 on: (i) the purchasing agency's compliance with the Act,
16 including details on any incidents of noncompliance; (ii) the
17 purchasing agency's analysis of goods, products, and materials
18 not subject to the Act, including details of any procured
19 products purchased under an exception listed in subsection (a)
20 of Section 10; and (iii) any recommendations for how to
21 further effectuate the policy set forth in this Act.

22 Section 99. Effective date. This Act takes effect upon
23 becoming law."